

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #14	CCRB Case #: 201700675	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/21/2017 5:25 PM	Location of Incident: Shore Parkway and East 11th Street, 61st Precinct stationhouse, 60th Precinct stationhouse	Precinct: 61	18 Mo. SOL 7/21/2018	EO SOL 7/21/2018	
Date/Time CV Reported Sat, 01/21/2017 6:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/26/2017 11:35 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Contessa	28493	901356	060 PCT
2. POF Jennifer Torres	11891	936476	060 PCT
3. SGT James Gale	01362	943265	060 PCT
4. POM Christophe Collins	08723	961702	060 PCT
5. SGT Michael Szczecinski	05475	940784	061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kurt Cani	15367	948191	060 PCT
2. POM Steven Hu	20562	958712	061 PCT
3. POM Joseph Villarreal	09081	961425	060 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Contessa	Abuse: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Anthony Contessa searched § 87(2)(b) [REDACTED]	
B.POM Anthony Contessa	Abuse: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Anthony Contessa threatened to arrest § 87(2)(b) [REDACTED]	
C.POF Jennifer Torres	Discourtesy: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Jennifer Torres spoke discourteously to § 87(2)(b) [REDACTED]	
D.POM Christophe Collins	Abuse: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Christopher Collins searched the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	
E.SGT Michael Szczecinski	Abuse: At the 61st Precinct stationhouse, Sergeant Michael Szczecinski did not process § 87(2)(b) [REDACTED]'s complaint regarding officers.	
F.SGT James Gale	Abuse: At the 60th Precinct stationhouse, Sergeant James Gale did not process § 87(2)(b) [REDACTED]'s complaint regarding officers.	

### Case Summary

On January 26, 2017, § 87(2)(b) filed this complaint via telephone with the CCRB. On January 21, 2017 at approximately 5:25 p.m., § 87(2)(b) was pulled over by PO Jennifer Torres and PO Christopher Collins of the 60<sup>th</sup> Precinct at the intersection of Shore Parkway and East 11<sup>th</sup> Street in Brooklyn for speeding. PO Torres and PO Collins approached § 87(2)(b)'s vehicle, and PO Torres requested his license and registration. § 87(2)(b) refused to provide his license and registration unless PO Torres showed him the radar gun, which PO Torres would not do. PO Torres radioed for backup.

Within a few minutes, PO Anthony Contessa and PO Kurt Cani of the 60<sup>th</sup> Precinct arrived at the location. § 87(2)(b) continued to refuse providing his license and registration without being shown the radar gun. PO Contessa allegedly reached inside § 87(2)(b)'s front left jacket pocket and his front left pants pocket (**Allegation A**) and removed § 87(2)(b)'s license. PO Contessa allegedly told § 87(2)(b) "You could be arrested" (**Allegation B**). § 87(2)(b) was issued a summons (Board Review 01) by PO Torres for speeding, and PO Contessa and PO Cani left the location. § 87(2)(b) returned to his vehicle and sat inside while reading over the summons. PO Torres approached, and informed him that he could be issued an additional summons for parking in a no standing zone, at which point § 87(2)(b) left.

Later, § 87(2)(b) returned to Shore Parkway and East 11<sup>th</sup> Street because he wanted to ask PO Torres a question. § 87(2)(b) pulled up directly in front of PO Torres' vehicle. PO Torres exited her vehicle, approached § 87(2)(b), and allegedly stated, "Are you fucking kidding me?" (**Allegation C**). PO Collins encircled § 87(2)(b)'s vehicle and looked around it with his flashlight. PO Collins allegedly stuck his head fully inside § 87(2)(b)'s front driver's side window, and allegedly held his flashlight inside § 87(2)(b)'s rear left and right windows (**Allegation D**). PO Torres told § 87(2)(b) that he would need to handle his summons in court. § 87(2)(b) left the location and drove to the 61<sup>st</sup> Precinct stationhouse.

Upon his arrival at the 61<sup>st</sup> Precinct stationhouse, § 87(2)(b) spoke to Sgt. Michael Szczecinski and informed him that he wanted to file a complaint about PO Torres and PO Contessa. Sgt. Szczecinski allegedly told § 87(2)(b) that he could not deal with the matter, and that § 87(2)(b) needed to go to the 60<sup>th</sup> Precinct stationhouse (**Allegation E**). § 87(2)(b) left and went to the 60<sup>th</sup> Precinct stationhouse.

Upon his arrival at the 60<sup>th</sup> Precinct stationhouse, § 87(2)(b) spoke to Sgt. James Gale and informed him that he wanted to file a complaint about PO Contessa and PO Torres. Sgt. Gale instructed § 87(2)(b) to call a 212 number posted on the wall. § 87(2)(b) was unsatisfied and instead wished to make a written complaint at the stationhouse (**Allegation F**). § 87(2)(b) left the 61<sup>st</sup> stationhouse without additional incident.

There is no video footage of the incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) opted to have his complaint investigated.
- As of April 3, 2017, § 87(2)(b) has not filed a Notice of Claim with the City of New York regarding this incident (Board Review 02).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 03).
- PO Contessa has been a member of the service for 24 years and has had 12 prior CCRB complaints involving 17 allegations. In CCRB case #9403234, a force allegation against him was substantiated; no penalty recommendation is listed in CTS. § 87(2)(g)
- PO Torres has been a member of the service for 12 years and has had two prior CCRB complaints involving two allegations, none of which were substantiated § 87(2)(g)
- PO Collins has been a member of the service for less than one year. This is his first CCRB complaint.
- Sgt. Szczecinski has been a member of the service for 11 years and has had five prior CCRB complaints involving 12 allegations, none of which were substantiated § 87(2)(g)
- Sgt. Gale has been a member of the service for 10 years and has had three prior CCRB complaints involving five allegations, none of which were substantiated § 87(2)(g)

### **Findings and Recommendations**

#### **Allegations not pleaded**

- § 87(2)(g)
- § 87(2)(g)

**Allegation A –Abuse of Authority: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Anthony Contessa searched § 87(2)(b)**

**Allegation B –Abuse of Authority: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Anthony Contessa threatened to arrest § 87(2)(b)**

It is undisputed that § 87(2)(b) refused to provide his identification after he was pulled over for speeding by PO Torres.

§ 87(2)(b) (Board Review 04) testified that he refused to provide his license and registration unless he was shown the radar gun to prove that he was speeding. PO Contessa, who arrived as backup, approached § 87(2)(b) and asked where his identification was. § 87(2)(b) stated that it was in his left pocket. PO Contessa then allegedly reached inside § 87(2)(b)'s left jacket pocket, but nothing was there. PO Contessa then went into § 87(2)(b)'s front left pants pocket, and retrieved § 87(2)(b)'s driver's license. PO Contessa asked § 87(2)(b) why he refused to provide his identification, and § 87(2)(b) stated he was only asking questions. PO Contessa allegedly informed § 87(2)(b) "You could be arrested." After his identification was obtained, PO Torres presented § 87(2)(b) with a summons for speeding.

PO Contessa (Board Review 05) testified that despite explaining that the officers needed

his identification to write a summons, and that he would need to go to the stationhouse if he did not provide it. § 87(2)(b) continued refusing to provide identification. PO Contessa put his hand inside § 87(2)(b)'s left front pants pocket and removed a wad of credit cards containing § 87(2)(b)'s driver's license. PO Contessa did not recall going inside § 87(2)(b)'s left front jacket pocket.

PO Cani (Board Review 06) corroborated that the officers planned to transport § 87(2)(b) to the stationhouse to be identified, based on his refusal to provide his identification. PO Cani observed PO Contessa reach towards § 87(2)(b)'s front left pants pocket, at which point § 87(2)(b) reached inside this pocket and provided his identification.

PO Torres (Board Review 07) testified that she did not observe the interaction between PO Contessa and § 87(2)(b) at time his identification was obtained. Procedurally speaking, if § 87(2)(b) did not provide his license he would have been placed under arrest until his identity was verified at the stationhouse. PO Torres testified that § 87(2)(b) could have been considered to be under arrest for being an unlicensed operator of a vehicle, though she did not overhear any conversation regarding this between PO Contessa and § 87(2)(b).

PO Collins (Board Review 08) could not recall what happened after § 87(2)(b) refused to provide his identification, and testified that he did not observe any interaction between § 87(2)(b) and PO Contessa.

An officer may stop a vehicle based upon probable cause that the driver has committed a traffic infraction. *People v. Robinson*, 97 N.Y.2d 341 (2001). An officer must have probable cause to arrest an individual in order to search him. *People v. DeBour*, 40 N.Y. 2d 210.

§ 87(2)(g)

§ 87(2)(g)

**Allegation C –Discourtesy: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Jennifer Torres spoke discourteously to § 87(2)(b)**

**Allegation D –Abuse of Authority: At Shore Parkway and East 11th Street in Brooklyn, Police Officer Christopher Collins searched the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) testified that after initially leaving the location, he returned because he wanted to ask PO Torres a question. § 87(2)(b) pulled his vehicle up directly in front of PO Torres' vehicle and PO Torres allegedly stated, "Are you fucking kidding me?" With a raised voice, § 87(2)(b) asked PO Torres why cursed at him for asking a question. PO Torres ordered § 87(2)(b) to show his hands, and he did so through his open car window. PO Collins then encircled § 87(2)(b)'s vehicle and looked around using his flashlight, allegedly placing his head fully inside § 87(2)(b)'s front driver's side window and his hand approximately five inches inside both § 87(2)(b)'s rear windows while holding his flashlight.

PO Torres testified that after he initially left, § 87(2)(b)'s vehicle came screeching around the corner back to her location at a high rate of speed. § 87(2)(b) pulled his vehicle up in between PO Torres' vehicle and other motorist with whom she had stopped. PO Torres did not know why § 87(2)(b) returned, but feared he may have come back with a gun because of how upset he was about the summons. PO Torres and PO Collins walked toward § 87(2)(b)'s vehicle, and PO Torres yelled for him to put his hands out of the window. § 87(2)(b) complied. PO Torres denied that she stated, "Are you fucking kidding me?" and denied using any profanity. PO Torres did not recall PO Collins conducting any visual inspection of § 87(2)(b)'s vehicle, and did not recall seeing PO Collins with his flashlight out. PO Torres denied that PO Collins leaned inside, reached inside, or made any sort of entry into § 87(2)(b)'s vehicle.

PO Collins did not recall § 87(2)(b) returning to the location after he had initially left. PO Collins did not recall hearing PO Torres tell § 87(2)(b) "Are you fucking kidding me?" PO Collins did not recall conducting any visual inspection of § 87(2)(b)'s vehicle, and did not recall whether any body part of his went inside § 87(2)(b)'s vehicle.

§ 87(2)(g)

**Allegation E –Abuse of Authority: At the 61st Precinct stationhouse, Sergeant Michael Szczecinski did not process § 87(2)(b)'s complaint regarding officers.**

**Allegation F –Abuse of Authority: At the 60th Precinct stationhouse, Sergeant James Gale did not process § 87(2)(b)'s complaint regarding officers.**

§ 87(2)(b) testified that after the incident, he drove to the 61<sup>st</sup> Precinct stationhouse and informed Sgt. Szczecinski that he wished to file a complaint about PO Torres and PO Contessa for cursing at him and going into his pocket to retrieve his identification. Sgt. Szczecinski allegedly told § 87(2)(b) that he could not help him because he was at the wrong stationhouse, and directed § 87(2)(b) to the 60<sup>th</sup> Precinct stationhouse. § 87(2)(b) then went to the 60<sup>th</sup> Precinct stationhouse and informed Sgt. Gale that he wanted to file a written complaint. Sgt. Gale allegedly instructed § 87(2)(b) to call a 212 number posted on the wall, which is how § 87(2)(b) filed this complaint.

Sgt. Szczecinski (Board Review 09) testified that he spoke with § 87(2)(b) who was upset about the summons he received and wanted to speak with the supervisor of the officer who issued the summons. Sgt. Szczecinski explained to § 87(2)(b) that he could go to court if he felt the summons was issued unfairly, and that § 87(2)(b) would need to go to the 60<sup>th</sup> Precinct stationhouse if he wanted to speak with the summoning officer's direct supervisor. Sgt. Szczecinski also told § 87(2)(b) that he could file a CCRB complaint over the matter at the precinct, via telephone, or at the CCRB. Sgt. Szczecinski denied that he refused to file a CCRB complaint for § 87(2)(b) and testified that he did not make any written complaint for him because § 87(2)(b) did not wish to do so.

PO Steven Hu (PO Board Review 11), assigned as the telephone switchboard operator at the 61<sup>st</sup> Precinct stationhouse, had no recollection of the incident.

Sgt. Gale (Board Review 10) testified that § 87(2)(b) arrived at the 60<sup>th</sup> Precinct stationhouse and informed him that he wanted to file a complaint about being issued a summons and being pulled over for no reason. § 87(2)(b) was also on his cell phone, and informed Sgt. Gale that he was talking to the CCRB. Sgt. Gale testified that he walked away to a separate room to obtain paperwork to file § 87(2)(b)'s complaint, and upon his return a few minutes later, § 87(2)(b) was gone. Sgt. Gale denied that he ever refused or failed to file § 87(2)(b)'s CCRB complaint, and testified that § 87(2)(b)'s complaint was not filed at the stationhouse because § 87(2)(b) left.

PO Joseph Villareal (Board Review 12), assigned as the telephone switchboard operator at the 60<sup>th</sup> Precinct stationhouse, corroborated § 87(2)(b)'s account. PO Villareal testified that Sgt. Gale informed § 87(2)(b) he could file a written CCRB complaint, and that when he and Sgt. Gale went to obtain the paperwork, § 87(2)(b) had already left the stationhouse.

§ 87(2)(g) [REDACTED]

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Squad: #14

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date